IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 184 of 2002

in

SPECIAL CIVIL APPLICATIONNo 11374 of 2000

with

Civil Application No.3320 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SABARKANTHA JILLA NIVRUTT PRATHMIK SHIKSHAN SANGH
Versus
DISTRICT DEVELOPMENT OFFICER

Appearance:
MR KB PUJARA for Appellant No.
MR MANISH J PATEL for Respondent No. 1-2
NOTICE SERVED BY DS for Respondent No. 3,5
GOVERNMENT PLEADER for Respondent No. 4

CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE KUNDAN SINGH

Date of decision: 08/07/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

A very short and interesting question which has surfaced in this Letters Patent Appeal under clause 15 of the Letters Patent, pertains to grant of interest on the delayed payment due and payable to the primary teachers pursuant to the Government Resolution dated 5.7.91 relating to the benefit of higher pay-scales at the end of 9, 18, 27 years with effect from 1.6.1987 and also by another G.R. dated 16.8.94, whereby, the scheme applied for giving benefit at the end of 9, 20 and 30 years of service. The learned single Judge refused the same on the ground of delay and having not claimed interest in the earlier representations.

With a view to appreciate the aforesaid sole question, it would be necessary to peep into the skeleton projection of facts leading to the rise of this Letters Patent Appeal. The appellant, original-petitioner, is an association of retired Primary Teachers called Sabarkantha Jilla Nivrut Prathmik Shikshak Sangh (hereinafter referred to as "the Association"). The Association initiated legal battle through its President by filing Special Civil Application No.11374 of 2000 contending that similarly situated 824 teachers were granted benefit of the aforesaid GRs with interest at the rate of 12 per cent per annum pursuant to the decision recorded by Single Bench in Special Civil Application No.6589 of 1995 on 11.4.96, which came to be confirmed by a Division Bench in which one of us (J.N.Bhatt, J.) is a party in Letters Patent Appeal No.586/96 decided on 30.9.99 and it has become final. It is, therefore, clear that the teachers who were paid the amount due and payable pursuant to the aforesaid Government resolutions referable to higher pay-scale on stagnation basis were awarded arrears of interest at the rate of 12 per cent per annum. There was, also, a litigation initiated by the Association. Somehow or the other, 53 teachers for whom claim is advanced by the Association in this Letters Patent Appeal and initially in the writ petition were not parties to the said proceedings. There is no dispute about the fact that the earlier decision was accepted by the Government and all the 824 teachers were paid the amount due and payable as per the Government Resolution with interest at the rate of 12 per cent per annum from the date when the amount became due and payable.

The cause of 53 retired primary teachers advanced by the Association in the writ petition failed to succeed before the learned single Judge on the aforesaid two grounds. After having given our anxious thoughts and considerations to the submissions and the facts and circumstances emerging from the record of the present case and the proposition of law, we are of the opinion that the said grounds advanced by the learned single Judge, in order to reach to the conclusion impugned before us, are not germane. Therefore, there is no reason why the claim of 53 teachers for payment of interest for delayed payment should be rejected. Factually, we find that there was no delay in the light of the aforesaid dates of the decisions and the acceptance of the respondent authority the decision, which came to be confirmed by the Division Bench in the Letters Patent Appeal, as aforesaid. Unfortunately, we are at the crossroads where and why the largest litigant should try to thwart avoidable litigation. Pendency of cases, delay in their disposal and the frustration of litigants on account of long delay, high expenses, time consumption and strain and stress of litigants are the primary issues which are of common concern of all of us. Considering the earler decision of the High Court which is confirmed in the LPA and having honoured the directions contained therein for payment of interest to 824 teachers, similarly situated persons falling in the same bracket should have been paid interest as directed by this Court after judicial adjudication by the respondent authority, more so, when it is expected to be a model master in a welfare state.

Be that as it may, it cannot be gainsaid that the appellant Association has made claim on the basis of earlier decision and also the Constitutional command enshrined under Article 14 for payment of interest on the amount due and payable as per the Government Resolutions and therefore, it cannot be denied to the 53 teachers for whom the petition came to be filed. We are, therefore, left with no alternative but to award interest at the rate of 12 per cent per annum from the due dates on the amount due and payable to the teachers. Since the amount due and payable to each one of them has been, already, paid by the respondent, the respondent authority is directed to pay interest at the rate of 12 per cent from the due dates on the same line as paid to other similarly situated teachers and hopefully to those who are left out so as to avoid further litigation and multiplicity of litigation, when unbreakable backlog is one of the major issues on the anvil of judicial reforms, as early as

possible, but not later than four months from the date of receipt of writ of this Court. It will be open for the appellant, original-petitioner, if this direction is not complied with, to move this court for further directions.

The Letters Patent Appeal, therefore, shall stand allowed accordingly, quashing the impugned order, with costs.

Direct service permitted.

The Civil Application shall also stand disposed of in view of the order in the LPA.

(J.N.Bhatt, J.)

(Kundan Singh, J.)
(vjn)